

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-16-10)
MARK AND KAROL HICKCOX
JULY 5, 2016

This is a report to the Flathead County Board of Adjustment regarding a request from Mark and Karol Hickcox for a conditional use permit to allow for a *'bed and breakfast establishment'*. The subject property is located within the West Glacier Zoning District and is zoned *'R-5, Two-Family Residential'*.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on July 5, 2016 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Committee.

B. Board of Adjustment

This space is reserved for an update regarding the July 5, 2016 Flathead County Board of Adjustment review of the request.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

Mark and Karol Hickcox
P.O. Box 264
West Glacier, MT 59936

ii. Landowner

Mark and Karol Hickcox
P.O. Box 264
West Glacier, MT 59936

B. Property Location and Size

The property is located at 524 Reverbend Drive west of West Glacier (see Figure 1 below). The property is approximately 0.5 acres and can be legally described as Lot 5, Mountain Peak in Section 35, Township 32 North, Range 19 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in red)



C. Existing Land Use(s) and Zoning

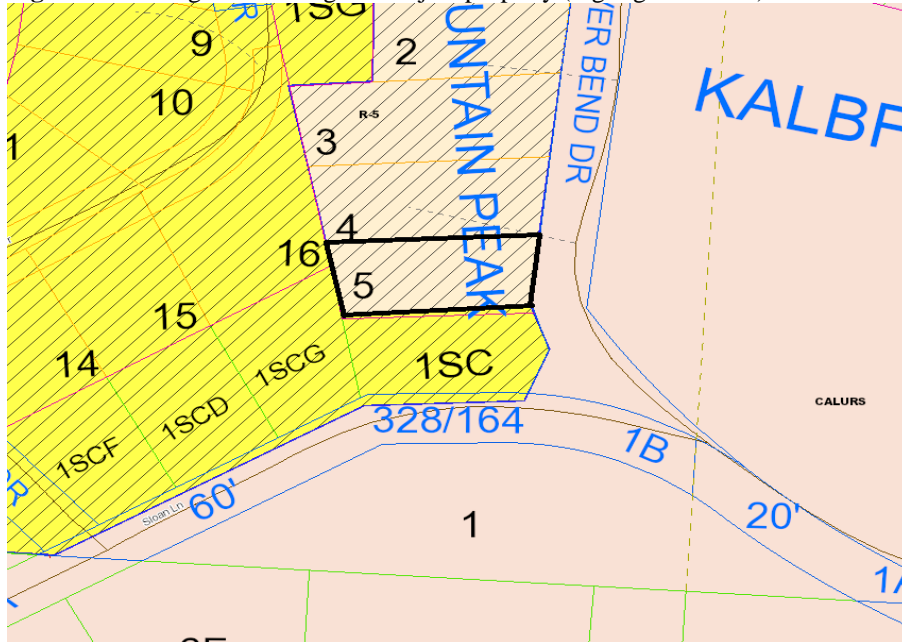
The property is located within the West Glacier Zoning District and is zoned 'R-5, Two-Family Residential'. The R-5 zone is defined as, "A residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district."

The property is currently developed with a single family residence.

D. Adjacent Land Use(s) and Zoning

Property in the surrounding vicinity includes 'R-5, Two-Family Residential,' 'CALURS,' R-2, 'One Family Limited Residential,' and 'B-6, Resort Business' zoning (see Figure 2 below). The primary use in the area is generally residential on small lots. There is a golf course approximately ¼ mile to the north.

Figure 2: Zoning surrounding the subject property (highlighted black)



E. Summary of Request

The applicant is proposing a ‘bed and breakfast establishment’ at 524 Riverbend Drive within the West Glacier Zoning District. The bed and breakfast establishment will consist of 1,600 square feet of living space with two bedrooms, two bathrooms, living area, patio, and balcony for guests. The resident manager will occupy 1,000 square feet of living space over the attached garage. The bed and breakfast is anticipated to be operational year round. It should be noted that this application was received as the result of a zoning complaint filed with the Flathead County Planning Office. The complaint stated that the applicants have rented portions of the single family residence on a short term basis. Short term rentals in residential zoning districts are not allowed; however, a bed and breakfast establishment may be conditionally approved to allow short term rentals in this residential zone.

The applicant is requesting a conditional use permit to allow for a bed and breakfast establishment to be placed on the subject property pursuant to Section 7.03.020 and Section 4.02 of the Flathead County Zoning Regulations (FCZR). A bed and breakfast establishment is defined under Section 7.03.020 FCZR as “A single-family detached dwelling containing, in addition to living accommodations for the resident manager, individual sleeping rooms without cooking facilities for the purpose of providing to the general public for compensation, lodging, bathroom facilities, and breakfast only to overnight patrons.” The placement of a bed and breakfast establishment in an R-5 zone requires the issuance of a Conditional Use Permit, the review of which is subject to specific guidelines set forth under Section 2.06.080 FCZR regarding criteria for the issuance of a Conditional Use Permit and conditional use standards for a bed and breakfast establishment found in Section 4.02 FCZR.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on June 15, 2016, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application was published in the June 19, 2016 edition of the *Daily Interlake*.

G. Agency Referrals

Referrals were sent to the following agencies on March 29, 2016:

- Bonneville Power Administration
- Coram/West Glacier Fire District
- Flathead City-County Health Department
- Flathead County Solid Waste (FCSW)
- Flathead County Weeds and Parks Department
- Flathead County Sheriff's office
- Flathead County Road Department

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for July 5, 2016. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead County Environmental Health Department
 - Comment: "The subject parcel has a current Certificate of Subdivision Approval (No. 15-76-K5147) and current septic system (Permit #99-4086N) which approves one, single 3-bedroom family dwelling unit. A 2-bedroom bed and breakfast would not require re-review through the Sanitation in Subdivisions Act. As long as the total bedroom numbers remain at three (3) or fewer, the current septic system will be adequate to serve the proposed bed and breakfast.
 - Operation of a bed and breakfast requires a Public Accommodations license issued by the State of Montana (MCA 50-51-201). Application for this license can be initiated with Environmental Health Services." Letter dated June 15, 2016
- Bonneville Power Administration
 - Comment: "In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA has no objection to the proposed action." Email dated June 16, 2016.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate usable space

The proposed bed and breakfast establishment will be located on 0.5 acres (see Figure 3). The lot is currently developed with a residence, including a two bedroom addition and is relatively flat. The total lot coverage for the proposed bed and breakfast establishment will be approximately 2,000 square feet or 9.1% which is less than the permitted lot coverage in the R-5 zone of 40%.

The minimum yard requirements within the R-5 zoning are 20 feet for front, rear and side corner yards and 5 feet for side yards. An additional 20 foot setback is required from streams, rivers and unprotected lakes but none of these features exist on site. A recent site inspection confirms that the existing structure, including the addition, meets all applicable setback requirements. It appears the subject property has adequate useable space to accommodate the bed and breakfast establishment in compliance with the setback and lot coverage requirements of the R-5 zone.

Figure 3: Site map



Finding #1 – There appears to be adequate usable space for the proposed use because the use will only cover 9.1% of the lot and the proposal will easily meet the applicable setback and lot coverage requirements.

ii. Adequate access

The bed and breakfast establishment will be accessed via a shared driveway off River Bend Drive. River Bend Drive is a paved road maintained by the Flathead County Road and Bridge Department. The shared driveway is shared by the applicant and the property owner to the north. This shared driveway situation dates back to when the properties were first developed. Further, the shared driveway has adequate width to serve the two properties.

Finding #2 – Access to the property is currently suitable for the proposed use because the bed and breakfast establishment has access off River Bend Drive, a paved county maintained road, onto a shared driveway.

iii. Absence of environmental constraints

According to FEMA FIRM panel 1155G the subject property is situated in an un-shaded Zone X, which is classified as an area outside the 500-year floodplain. Additionally, there appears to be no wetlands, streams, or creeks located on the subject property.

Finding #3 – The subject property appears suitable for the bed and breakfast establishment because the site is not within a Special Flood Hazard Area and does not contain wetlands, streams, or creeks.

B. Appropriateness of design

i. Parking scheme

FCZR Section 6.03.010 states that for Bed and Breakfast there is a requirement of, “2 spaces for the resident family or manager plus 1 space per room rented plus 1 space for every 2 outside employees of maximum shift.” The parking space dimensions for a standard vehicle are 9 by 20 feet. [FCZR Section 6.01.010(2)(A)] There will be no employees for the bed and breakfast. There is a two car attached garage capable of providing parking for the resident manager, and the site plan and the application indicate additional parking for up to four additional vehicles on a gravel base. The identified parking areas appear to provide ample parking for the proposed bed and breakfast.

Finding #4 – The proposed parking scheme appears to be appropriately designed because the applicant is proposing a parking area with up to four spaces for the bed and breakfast establishment and a 2-car garage for the resident manager.

ii. Traffic circulation

Ingress and egress to the bed and breakfast establishment proposed on the subject property will be via a shared driveway off of River Bend Drive. FCZR Section 6.16.020(3) requires a minimum road width of 20’ for two-way traffic accessing a business. River Bend Drive appears to exceed this minimum width requirement.

The shared driveway has been in existence since the properties were developed. The driveway is approximately 12 feet wide and appears to be adequate to provide access to the bed and breakfast establishment for the resident manager, paying guests as well as the property owners adjacent to the north.

Finding #5 – The proposed traffic circulation appears to be appropriately designed because the existing shared driveway will continue to provide access for this use that is residential in nature.

Open space

The subject property is 0.5 acres in size and the applicant is proposing to utilize the existing single family residences for a bed and breakfast establishment. The applicant states no additional structures will be built in addition to the existing residence. The total lot coverage for the proposed bed and breakfast establishment will be well below the permitted lot coverage in the R-5 zone of 40%.

iii. Fencing/screening

The applicant indicates there are no plans to install any fencing. The zoning designation and bed and breakfast establishment do not require any fencing or screening.

iv. Landscaping

The applicant indicates there is currently a grass lawn in the front and the side (south) side of the facility. Further, the property is screened by trees on the east, west and south sides. The north side of the property is where the access and parking are located. No landscaping is required for the bed and breakfast establishment based on the applicable zoning regulations.

v. Signage

The applicant states ‘No signage will be utilized.’ There is no current signage on the property. Any future signage shall meet the standards outlined in FCZR Section 5.11.

vi. Lighting

According to the application concerning lighting, ‘residential exterior motion detector light on the garage for the parking area and at the front door will be utilized.’ The applicant shall be required to conform to the lighting standards set forth in Section 5.12 FCZR and will be conditioned accordingly and inspected after one year.

Finding #6 – The bed and breakfast establishment appears to be adequately designed because lot coverage will be significantly less than 40 percent allowed in the R-5 zone, and there is natural vegetation that will buffer three sides of the facility.

Finding #7 – Any future directional signs shall meet requirements outlined in FCZR Section 5.11.

C. Availability of Public Services and Facilities

i. Sewer

The proposed bed and breakfast establishment will be served by an existing single septic system. Comment from Flathead City-County Environmental Health Department states, “The subject property has a current Certificate of Subdivision Approval and current septic system which approves one single 3-bedroom family dwelling unit. A 2-bedroom bed and breakfast would not

require re-review through the Sanitation in Subdivisions Act. As long as the total bedroom numbers remain at three or fewer, the current septic system will be adequate to serve the proposed bed and breakfast.” The septic system appears to meet the need of the conditional use of the bed and breakfast establishment.

ii. Water

The application states that the bed and breakfast establishment is served by MP, Inc., a community water system.

Comment from Flathead City-County Environmental Health Department also states “The proposed bed and breakfast operation requires a Public Accommodations License issued by Montana department of Health and Human Services, Food and Consumer Safety Section (MCA 50-50).” The applicant must obtain the appropriate accommodations license from the Flathead City-County Environmental Health Department for operation of a bed and breakfast establishment.

The applicants submitted information that appears to indicate that they received a Public Accommodations License. In addition, the applicants also submitted a Montana Department of Revenue Sales and Use Tax Permit.

Finding #8 – The requirements for waste water treatment, water and accommodations license for the bed and breakfast establishment appear to be acceptable because the systems and applicant will be required to meet the Flathead City-County Environmental Health permit standards.

iii. Storm Water Drainage

The application materials indicate storm water run-off will be handled through on-site absorption. The proposed use does not appear to affect the existing storm water drainage due to the fact the existing structures and impervious surfaces will not be altered. The Flathead City-County Department of Environmental Health did not indicate any additional requirements were needed to adequately address storm water drainage.

Finding #9 – The bed and breakfast establishment appears to have acceptable impacts on storm water drainage because the storm water will be managed through on-site absorption, and the Flathead City-County Environmental Health Department did not indicate any further requirements concerning storm water drainage.

iv. Fire Protection

The subject property is located in the Coram/West Glacier District. The request to operate a bed and breakfast establishment would not alter the number of structures on the property. The subject property is located approximately 1 mile from the existing fire station. The bed and breakfast establishment would be used year round and is not likely to hinder the availability of fire protection. No comments have been received from the Coram/West Glacier Fire District at this time.

v. Police Protection

The property would be served by the Flathead County Sheriff's Department. Due to the distance of the property to Kalispell, long response times should be anticipated. The bed and breakfast establishment would be used year round and is not likely to hinder the availability of police protection.

vi. Streets

The bed and breakfast establishment will be accessed via River Bend Drive, a paved two-lane local public road within a 60-foot right-of-way.

Finding #10 – The proposed use appears to have acceptable impacts on public services and facilities because the bed and breakfast establishment will be used year round, the Coram/West Glacier Fire District and Flathead County Sheriff provide services to the subject property and the property is accessed off of an adequate roadway for the proposed use.

D. Immediate Neighborhood Impact

i. Excessive traffic generation

The proposed bed and breakfast establishment is not anticipated to increase traffic along River Bend Drive above the level expected of a single family residential use. The applicants state 'We anticipate one guest car, mainly leaving in the A.M. and returning in the P.M. after their outing. Resident has a car and works from home.' There is no comparable use listed in the 5th edition of the Institute of Transportation Engineers Trip Generation book.

The most recent traffic count by the Flathead County Road & Bridge Department for River Bend Drive conducted in 2000 showed a total average daily traffic (ADT) count of 1,268. An additional 2 trips a day anticipated by the bed and breakfast establishment would increase traffic on River Bend Drive insignificantly, approximately 0.001%. The Flathead County Road and Bridge department submitted comments stating, "At this point the County Road Department does not have any comments on this request." Given the anticipated increase of only .001% in traffic generation for River Bend Drive and the Flathead County Road and Bridge Department raising no concerns with the proposal, it does not appear the proposed bed and breakfast establishment would generate excessive traffic.

ii. Noise or vibration

The applicants state, 'None. General quiet time suggestion of 10:00pm to 6:00am.' Given the residential use of the proposed bed and breakfast establishment, there appears to be minimal impacts from noise or vibration.

iii. Dust, glare or heat

The proposed use is not anticipated to generate glare or heat that would adversely impact the neighborhood. There are no proposed changes to the current building which would alter the current effect on dust, glare or heat.

iv. Smoke, fumes, gas, or odors

No fumes or gas are anticipated to be generated by the bed and breakfast establishment.

v. Inappropriate hours of operation

The applicants state, “General ‘quiet time’ suggestion of 10:pm to 6:00am” does not appear to be inappropriate.

Finding #11 – The proposed use is not anticipated to impact the surrounding neighborhood because the traffic generated by the proposal is only anticipated to increase traffic on River Bend Drive by .001%, the use is not anticipated to create noise, vibration, glare, heat, smoke, fumes, gas or odors or have of operation out of character with the residential setting or produce unacceptable impacts to the neighborhood.

V. SUMMARY OF FINDINGS

Finding #1 – There appears to be adequate usable space for the proposed use because the use will only cover 9.1% of the lot and the proposal will easily meet the applicable setback and lot coverage requirements.

Finding #2 – Access to the property is currently suitable for the proposed use because the bed and breakfast establishment has access off River Bend Drive, a paved county maintained road, onto a shared driveway.

Finding #3 – The subject property appears suitable for the bed and breakfast establishment because the site is not within a Special Flood Hazard Area and does not contain wetlands, streams, or creeks.

Finding #4 – The proposed parking scheme appears to be appropriately designed because the applicant is proposing a parking area with up to four spaces for the bed and breakfast establishment and a 2-car garage for the resident manager.

Finding #5 – The proposed traffic circulation appears to be appropriately designed because the existing shared driveway will continue to provide access for this use that is residential in nature.

Finding #6 – The bed and breakfast establishment appears to be adequately designed because lot coverage will be significantly less than 40 percent allowed in the R-5 zone, and there is natural vegetation that will buffer three sides of the facility.

Finding #7 – Any future directional signs shall meet requirements outlined in FCZR Section 5.11.

Finding #8 –The requirements for waste water treatment, water and accommodations license for the bed and breakfast establishment appear to be acceptable because the systems and applicant will be required to meet the Flathead City-County Environmental Health permit standards.

Finding #9 – The bed and breakfast establishment appears to have acceptable impacts on storm water drainage because the storm water will be managed through on-site absorption, and the Flathead City-County Environmental Health Department did not indicate any further requirements concerning storm water drainage.

Finding #10 – The proposed use appears to have acceptable impacts on public services and facilities because the bed and breakfast establishment will be used year round, the Coram/West Glacier Fire District and Flathead County Sheriff provide services to the

subject property and the property is accessed off of an adequate roadway for the proposed use.

Finding #11 – The proposed use is not anticipated to impact the surrounding neighborhood because the traffic generated by the proposal is only anticipated to increase traffic on River Bend Drive by .001%, the use is not anticipated to create noise, vibration, glare, heat, smoke, fumes, gas or odors or have of operation out of character with the residential setting or produce unacceptable impacts to the neighborhood.

VI. CONCLUSION

Upon review of this application, the request to allow for a bed and breakfast establishment is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-16-10 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS

1. The operation of the ‘Bed and Breakfast Establishment’ on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below for this permit to be valid [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The approved use shall conform to the applicable standards of the R-5, Two-Family Residential zoning district [FCZR Section 3.13].
4. A minimum of 3 standard vehicle parking spaces shall be clearly established on the subject property in accordance with applicable zoning regulations [FCZR Sections 6.03.010].
5. The proposed water, wastewater treatment and storm water drainage systems for the bed and breakfast establishment shall be reviewed as applicable by the Flathead City-County Health Department. A copy of the approved permits shall be available upon request by Flathead County Planning and Zoning.
6. The applicant shall obtain and maintain a Public Accommodations license issued by Montana Department of Health and Human Services, Food and Consumer Safety Section (MCA 50-51) and submit to the Flathead County Planning and Zoning Office.
7. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Section 5.11 of the Flathead County Zoning Regulations
8. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
9. The operation of the bed and breakfast establishment shall commence within one year from the date of issuance of the conditional use permit. The permit may be extended

for one additional year if the permittee requests additional time prior to expiration date.

10. At the end of twelve (12) months from the date of authorization of this permit staff will inspect to verify compliance [FZCR Section 2.06.060].

Planner: MM